THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

W.P.No.28361 of 1996

Date:17.02.2006

Between:

S.Venkateswar Rao

-------PETITIONER

AND

The District Collector and others

---------RESPONDENTS

-

-

-

-

-

-

ORDER:

-

The petitioner states that he is the owner of about Acs.13.00 of land in various survey numbers of Madepalli village, West Godavari District. He claims to have dug a fish tank in his land. His complaint is that respondents 5 and 6 sought to interfere with his possession and there upon, he filed O.S.No.323 of 1996 on the file of the I Additional District Munsif, Eluru and obtained an order of temporary injunction. He contends that not being able to interfere with his possession, respondents 5 and 6 have approached respondents 1 to 4 and they, in turn, are instigating the third parties to destroy the fish tank of the petitioner as well as the residential house therein. He seeks appropriate directions against the respondents in this regard.

On behalf of respondents 5 and 6, it is stated that they never interfered with the

property of the petitioner.

No counter affidavit is filed on behalf of respondents 1 to 4.

Heard the learned counsel for the petitioner and the learned Government Pleader for Revenue.

The root cause for the dispute between the petitioner and the respondents appears to be the formation of a fish tank in an area of Acs.13.00 by the petitioner. He claims to have filed O.S.No.323 of 1996 against respondents 5 and 6 and some others, and obtained an order of interim injunction. It is not known as to whether the suit is still pending. So far as respondents 1 to 4 are concerned, they are under obligation to follow the procedure prescribed by law, before taking any action against the petitioner, either in the context of causing any obstruction to the irrigation canal or formation of any fish tank. They cannot take action against the petitioner, without following the procedure.

For the foregoing reasons, the writ petition is disposed of, directing that:

a. the relation between the petitioner on the one hand and respondents 5 and 6 on the other in the context of their mutual rights, shall depend upon the outcome of O.S.No.323 of 1996 and O.S.No.334 of 1996 on the file of the I Additional District Munsif, Eluru and the Principal District Munsif, Eluru respectively and the parties shall abide by the same.

b. respondents 1 to 4 shall follow the procedure prescribed by law by issuing notices, before they proposes to take any action against the petitioner.

There shall be no order as to costs.

_____

17.02.2006

kdl

-